

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION**

Teresa Durham and Glenn Durham,

Plaintiffs,

vs.

Wal-Mart Stores, Inc., Wal-Mart Stores East,
L.P. d/b/a Wal-Mart Store #2687, Amanda
Reynolds, John Doe 1 and John Doe 2,

Defendants.

C/A: _____

**DEFENDANTS' NOTICE OF
REMOVAL**

1. Defendants Wal-Mart Stores, Inc., Wal-Mart Stores East, L.P. d/b/a Wal-Mart Store #2687, Amanda Reynolds, John Doe 1 and John Doe 1 (hereinafter, "Defendants"), hereby jointly file this Notice of Removal of the above-titled action from the Circuit Court of Spartanburg County, South Carolina, to the United States District Court for the District of South Carolina, Spartanburg Division, pursuant to 28 U.S.C. § 1441.

2. The above-titled action was instituted by the Plaintiffs against the Defendants by the service of a Summons and Complaint filed on July 13, 2022. The action is currently pending in the Circuit Court for Spartanburg County, South Carolina, Case No. 2022-CP-42-02582. Defendants were served by and through their undersigned counsel with consent on August 30, 2022, rendering this removal timely. Pursuant to 28 U.S.C. § 1446(a), a copy of all documents filed in this action constituting all process, pleadings, and orders, are attached hereto as Exhibit 1, State Court Documents.

3. There is jurisdiction over this removed action pursuant to 28 U.S.C. § 1441 because this action could have originally been filed in this court pursuant to 28 U.S.C. § 1332.

Specifically, this suit is removable because, as set forth more fully below, there is complete diversity of citizenship between the Plaintiffs and Defendants. Based upon Plaintiffs' counsels' written correspondence, demand, alleged physical injuries, claimed treatment, as well as other claimed injuries and damages, including prayer for punitive damages, the amount in controversy exceeds \$75,000.00, exclusive of interests and costs.

4. At the time of commencement of the action, Plaintiffs were and still are citizens of South Carolina and Defendant Wal-Mart Stores, Inc. and Wal-Mart Stores East, L.P. d/b/a Wal-Mart Store #2687 were at the time of the commencement of the action, and still are, a business entity organized and existing under the laws of a state other than South Carolina and having their principal place of business in a state other than South Carolina. Specifically, pursuant to 28 U.S.C. § 1332(c)(1), Walmart Stores East, LP. is a citizen of both Delaware and Arkansas, as it is a Delaware business entity with its respective principal places of business in Arkansas. *See also, Cent. W. Virginia Energy Co. v. Mountain State Carbon, LLC*, 363 F.3d 101, 102 (4th Cir. 2011). Further, Defendant Wal-Mart's general partner, WSE Management, LLC, was incorporated in Delaware, as was its limited partner, WSE Investment, LLC. The sole member of WSE Management, LLC and WSE Management, LLC is Wal-Mart Stores East, LLC, which is incorporated in Arkansas. In accordance with *Cent. W. Virginia Energy Co.*, the principal place of business of each of the aforementioned entities is Bentonville, Arkansas.

5. At the time of the commencement of the action, Defendant Amanda Reynolds was and is a citizen of North Carolina.

6. At the time of the commencement of the action, Defendants John Doe 1 and John Doe 2 are being sued under fictitious names; thus, their residency is disregarded pursuant to 28 U.S.C. § 1441(b)(1).

7. Plaintiffs' allegations arise out of an incident the Plaintiffs claim occurred in Wal-Mart Store #2687 located in Spartanburg, South Carolina. Specifically, on July 19, 2019, Plaintiffs allege that they suffered injury when a box fell off of a pallet striking Teresa first and then ricocheting onto Glenn. *See* Complaint, Paragraph 9. Plaintiffs allege damages for their injuries, and specifically lost wages, future medical bills and expenses, pain and suffering and punitive damages. *Id.* Based on written communications with counsel, upon information and belief, the value of the matter in dispute exceeds the sum of Seventy-Five Thousand and NO/100 (\$75,000.00) Dollars, exclusive of interest and costs and said action is one over which the District Court of the United States has original jurisdiction under 28 U.S.C. § 1332.

8. Defendant hereby gives counsel for Plaintiffs written notice of the removal of this action and will provide a copy of this Notice of Removal to the Clerk of Court for Spartanburg County, as required by 28 U.S.C. § 1446(d).

9. Defendants file this Notice of Removal within thirty (30) days of service of process of the Complaint in the state court action, which is the first pleading received by Defendant setting for the claim for relief in which this action is based.

10. All Defendants consent to removal.

WHEREFORE, Defendants respectfully submit this Notice of Removal of the State Court action to this Court this 29th day of September 2022.

s/ Mary D. LaFave

Mary D. LaFave, Fed. ID. 10316
CROWE LAFAVE GARFIELD & BAGLEY, LLC
P.O. Box 1149
Columbia, South Carolina 29202
(803) 726-6756
mary@crowelafave.com

Counsel for Defendants